

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 604**

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**Introduced by Assembly Member Fuller**

February 25, 2009

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~~An act to amend Section 52851 of, and to add Section 52857 to, the Food and Agricultural Code, relating to cotton, and making an appropriation therefor. An act to amend Section 52891 of, and to repeal Sections 52879, 52951, 52952, and 52953 of, the Food and Agriculture Code, relating to cotton.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 604, as amended, Fuller. Cotton: San Joaquin Valley Quality Cotton District.

Existing law establishes the San Joaquin Valley Quality Cotton District for the purposes of promoting, encouraging, aiding, and protecting the planting and growing of cotton in California. Existing law establishes the San Joaquin Valley Cotton Board, composed as specified, and establishes that *one of the duties and powers of the board include, but are not limited to, establishing quality standards, reviewing is to annually review* test data and approving for release and planting cotton varieties, as specified, ~~and making recommendations to the Secretary of Food and Agriculture on all matters pertaining to the district. Existing law provides funding for the board and enforcement of these provisions through assessments and requires that all moneys~~

received pursuant to these provisions, which are deposited in the Food and Agriculture Fund, be used exclusively for purposes of the district.

*This bill would instead provide that the board has a duty to periodically review test data and approve for release and planting cotton varieties, as specified.*

*Existing law provides that the board has the power to sue and be sued, and to enter into contracts. Existing law establishes that copies of the board's proceedings, records, and acts, when certified by the secretary of the board, shall be admissible in evidence in all courts of the state. Existing law authorizes the board to annually assess cotton growers an amount, as specified, and requires that this money be used exclusively for promotion, research, and related administrative expenses.*

*This bill would repeal those provisions.*

~~This bill would make these provisions and related regulations inoperative except for those establishing the board and other specified provisions. The bill would authorize the board, with the concurrence of the Secretary of Food and Agriculture, to periodically determine that provisions made inoperative by this bill become operative for a specified period of time. The bill would authorize the board to make refunds or transfers of moneys deposited in the Food and Agriculture Fund, as specified. Because the bill would authorize the use of these funds for a new purpose, the bill would make an appropriation. The bill would require the board to provide an annual report to the Legislature specifying the actions taken pursuant to those provisions, and would require the board to notify known eligible growers and industry members of any action proposed to be taken pursuant to those provisions prior to taking that action, which could be taken only at a properly noticed public hearing of the board.~~

Vote: majority. Appropriation: *yes-no*. Fiscal committee: *yes*. State-mandated local program: *no*.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 52879 of the Food and Agricultural Code
- 2     is repealed.
- 3     52879. Upon implementation of Article 9.5 (commencing with
- 4     Section 52951), the board shall have the power to sue and be sued,
- 5     and to enter into contracts. Copies of its proceedings, records, and
- 6     acts, when certified by the secretary of the board, shall be

1 ~~admissible in evidence in all courts of the state, and shall be prima~~  
2 ~~facie evidence of the truth of all statements therein.~~

3 *SEC. 2. Section 52891 of the Food and Agricultural Code is*  
4 *amended to read:*

5 52891. The powers and duties of the board shall include, but  
6 not be limited to, all of the following:

7 (a) Establish a separate Acala and Pima quality standard. When  
8 determining each standard, the board shall consider fiber length,  
9 strength, uniformity, micronaire, seed quality, productivity,  
10 resistance to disease, including verticillium wilt, and spinning  
11 characteristics.

12 (b) ~~Annually~~ Periodically review test data and approve for  
13 release and planting within the district, cotton varieties that meet  
14 the existing Acala or Pima quality standard but are superior in  
15 some meaningful respect, as determined by the board, and that  
16 have qualities generally recognized by the cotton industry to be  
17 essential factors in producing that cotton within the district, or  
18 significant area within the district.

19 (c) Conduct or commission tests for cotton production and  
20 quality evaluation in accordance with procedures to be adopted  
21 pursuant to Section 52902, and assess fees necessary for  
22 administering those tests.

23 (d) Conduct periodic referendums, as specified in this chapter,  
24 regarding the continuation of the district. A referendum shall also  
25 be conducted whenever the board proposes substantive changes  
26 in the Acala or Pima quality standard.

27 (e) Require all cotton varieties approved for release for planting,  
28 and produced in the district, to contain the word "Acala" or "Pima"  
29 in labeling and all lint to be marketed as "SJV Acala" or "SJV  
30 Pima."

31 (f) Recommend to the secretary on all matters pertaining to this  
32 chapter including, but not limited to, the program for enforcing  
33 this chapter and the setting of an appropriate seed assessment rate  
34 necessary for the administration of this chapter.

35 *SEC. 3. Section 52951 of the Food and Agricultural Code is*  
36 *repealed.*

37 ~~52951. The board is authorized to annually assess cotton~~  
38 ~~growers in the district in an amount not to exceed one-half of 1~~  
39 ~~percent of each grower's gross dollar value from the previous~~  
40 ~~year's cotton crop.~~

1     ~~SEC. 4. Section 52952 of the Food and Agricultural Code is~~  
2     ~~repealed.~~

3     ~~52952. Assessments collected under this article are subject to~~  
4     ~~Section 52937 and Section 52932 and shall be used exclusively~~  
5     ~~for promotion, research, and related administrative expenses.~~

6     ~~SEC. 5. Section 52953 of the Food and Agricultural Code is~~  
7     ~~repealed.~~

8     ~~52953. The board shall develop a procedure for collecting~~  
9     ~~assessments under this article.~~

10    ~~(a) Collection of the assessment may be required of cotton~~  
11    ~~growers or cotton handlers.~~

12    ~~(b) A penalty of 10 percent of the unpaid assessment fee due~~  
13    ~~and payable may be imposed.~~

14    ~~SECTION 1. Section 52851 of the Food and Agricultural Code~~  
15    ~~is amended to read:~~

16    ~~52851. Subject to Section 52857, the Legislature hereby~~  
17    ~~declares that the purposes of this chapter are to promote, encourage,~~  
18    ~~aid, and protect the planting and growing of cotton in the State of~~  
19    ~~California; that it believes that these purposes can best be~~  
20    ~~accomplished by restricting within certain areas the planting and~~  
21    ~~growing of but two types of cotton, which are Acala and Pima;~~  
22    ~~that, by this means, it is possible to bring the cotton-growing~~  
23    ~~industry in the state to its highest possible development and to~~  
24    ~~ensure the growing of the most superior varieties of cotton; that~~  
25    ~~the planting of pure seed is essential to the production of more~~  
26    ~~marketable and better grades of cotton and cottonseeds, and for~~  
27    ~~the production of grades of fiber best suited for manufacturing~~  
28    ~~purposes; and that the planting of impure seeds or plants, other~~  
29    ~~than those authorized in these areas, is an economic harm and loss~~  
30    ~~to the planter thereof and an irreparable injury to the adjoining or~~  
31    ~~neighboring growers.~~

32    ~~SEC. 2. Section 52857 is added to the Food and Agricultural~~  
33    ~~Code, to read:~~

34    ~~52857. (a) Effective January 1, 2010, all provisions of this~~  
35    ~~chapter and related regulations, except Sections 52855, 52871,~~  
36    ~~52887, 52942, and 52945, shall be inoperative except as otherwise~~  
37    ~~provided in this section.~~

38    ~~(b) The board, with the concurrence of the secretary, may~~  
39    ~~periodically determine that specific sections of this chapter and~~

1 ~~related regulations shall become operative for a specified period~~  
2 ~~of time.~~

3 ~~(e) Notwithstanding any other provision in this chapter, the~~  
4 ~~board, with the concurrence of the secretary, may determine~~  
5 ~~whether funds collected pursuant to this chapter and deposited in~~  
6 ~~the Food and Agriculture Fund shall be refunded in whole or in~~  
7 ~~part to eligible persons or transferred to persons or organizations~~  
8 ~~subject to this chapter. The board, with the concurrence of the~~  
9 ~~secretary, is authorized to make a refund or transfer pursuant to~~  
10 ~~this subdivision.~~

11 ~~(d) The board shall provide an annual report to the Legislature~~  
12 ~~specifying the actions taken pursuant to subdivisions (b) and (c).~~

13 ~~(e) The board shall notify all eligible growers and industry~~  
14 ~~members known to the board of any action proposed to be taken~~  
15 ~~pursuant to subdivision (b) or (c) prior to taking that action, and~~  
16 ~~the action shall be taken only at a properly noticed public hearing~~  
17 ~~of the board.~~